

AUG 19 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HARKAMAL SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-70574

Agency No. A70-122-244

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 11, 2008 **

Before: CANBY, LEAVY and KLEINFELD, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying petitioner's motion to reopen deportation proceedings.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

We review the BIA's denial of a motion to reopen for abuse of discretion. *See Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002).

The regulations provide that "a party may file only one motion to reopen," and that the motion "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioner's motion to reopen as untimely because it was filed on December 18, 2007, more than 90 days after the March 23, 1998 final administrative decision. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). Further, the BIA did not abuse its discretion in concluding that petitioner failed to show that reopening was warranted based on changed circumstances in India. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Malty v. Ashcroft*, 381 F.3d 942, 945-47 (9th Cir. 2004). Accordingly, respondent's motion for summary disposition in part is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

We lack jurisdiction to review the BIA's decision declining to exercise its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153,

1159 (9th Cir. 2002). Accordingly, respondent's motion to dismiss this petition for review in part for lack of jurisdiction is granted.

All other pending motions are denied as moot. The temporary stay of deportation confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.